

REMARKS

Applicant requests reconsideration of the application as amended. Claims 1-8 and 10-18 and 21-23 are pending. Claim 9 was previously canceled without prejudice. Claims 19 and 20 are cancelled without prejudice to reintroducing same in a continuing application. Claims 21-23 are newly presented and claim features in dependent claims previously embraced within independent claim 1 or independent claim 18.

Applicant and Applicant's representative thank Examiner Clement for the courtesies extended during an interview held May 24, 2007. Proposed alternative claim language was discussed, and Applicant has amended the claims herein to adopt such language.

Claims 1 and 18 are currently amended to clarify that said firearm is permanently mounted to the shield. The firearm so mounted is dischargeably operable when said shield is held by the user in front of the user's body. Support for this amendment is found *inter alia* in paragraphs [0027 and [0029], which state that (a) the handle or forearm cuff permits the enforcement officer to hold the shield in a protective position while concurrently engaging a weapon integral with the shield with his hand, and (b) the firearm may be discharged to impact a target assailant located in front of the enforcement officer using the shield without separating the firearm from the shield. Support for a permanent mounting of the firearm also is found in FIGs. 2 and 4, in which fasteners such as threaded bolts extend through the barrels of firearms 14 and 52 and are secured with nuts to frames that are attached to the reverse face of the shield.

In the April 6, 2007 Office Action, the Examiner objected to the specification on grounds that the specification included new matter (35 U.S.C. 132(a)) when "means for" language was added by the prior amendment. The Examiner also rejected claims 19 and 20 under 35 USC 112, first paragraph, on grounds that these claims are not supported by the written description of the application. To obviate the rejection, claims 19 and 20 are cancelled and the specification has been amended at paragraphs [0025], [0027] and [0029] to return the text of these paragraphs to the text as originally filed.

Claims 1-5, 8, 10-12, 17, 19 and 20 were rejected under 35 USC §103(a) as obvious over US 2,316,055 (Davey) in view of US 6,886,446 (Baker). Applicant respectfully traverses this rejection.

Applicant discloses and claims a ballistic shield formed of a ballistic material with a viewing window, a handle mounted on the shield and a firearm permanently mounted onto the shield. As so mounted, the firearm is dischargeably operable so that the law enforcement officer may discharge the firearm while still holding the shield in front of his body to protect himself or herself. Applicant's shield is designed for use in modern law enforcement and crowd control, in which law enforcement officers must move together (usually in a line) into a crowd while holding shields in front of their bodies. Applicant's shield improves upon prior shields because one or more firearms and optionally other weapons are attached to the shield, and the firearms may be discharged while the shield is still held in protective position to protect the law enforcement officer. The user may activate the firearm while his or her hand remains protected behind the shield. In contrast, the prior art shields cited by the Examiner require a soldier to position a shield on the ground and insert a separate firearm barrel into an aperture before the soldier is ready to discharge that firearm. Applicant's shield has a firearm that remains permanently mounted to the shield and ready for firing both when the shield is stored or transported and when the shield is in use protecting a law enforcement officer.

Davey discloses a shield formed of a material capable of protecting against projectiles. Davey's shield has a viewing window, one or more handles mounted on the shield and an aperture 25 arranged below the viewing window to receive the front end of a pistol or rifle. Davey does not disclose a firearm mounted to the shield. Davey is devoid of any structure that can facilitate the mounting of a weapon onto the shield. Davey shows an aperture through which only the tip of a firearm can be inserted. Maintaining this insertion requires the user to hold the firearm in position. The Davey aperture does not permit the permanent mounting of a firearm onto the shield. Instead, Davey requires that the user expend effort to place and retain the firearm in position in association with the shield. There is no mounting means to hold the firearm in place in association with the shield while the soldier holds one or more of the handles 16, 17. Thus, Davey's shield cannot be transported from location to location with a firearm

integrally mounted therein and ready for firing. Rather, Davey requires a soldier to set up a shield to be "independently supported on the terrain" (Col. 2, lines 29-30), rather than permitting a firearm to be discharged when the shield is held by the soldier. Thus, Davey lacks "a firearm permanently mounted to the shield and dischargeably operable when so mounted".

Baker does not fill the gaps in the disclosure of Davey. Baker shows a ballistic shield with a handle 40 secured to the shield and onto which a long gun may be supported and a strap 34 secured to an inside surface of the shield that the user may hold by hand or wrist to support the shield in front of his torso. Baker's shield has a shallow V-groove or notch at a top margin over which a long gun barrel may be supported. With such configuration, Baker lacks a means for permanently mounting the firearm to the shield. At Col. 6, lines 23-26, Baker states: "It will be appreciated that the long gun cannot merely rest on the handle/support, but must be gripped by the operator to provide stability to the forward end of the long gun." This makes clear that the handle 40 is not a mounting means that attaches the long gun to the shield. See also discussion at Col. 7, lines 5-16. The gun merely rests atop the handle 40 and V-groove and must be held in place by the user. Baker further indicates that the shield may be transported by clipping it by the strap 34 to the individual's vest. Baker thus does not teach transporting the shield with a firearm integrally attached.

Finally, Baker teaches away from integrating a shield together with a viewing window. Baker proposes a separate helmet and visor to protect the user's head (Col. 7, lines 37-40). Baker does so to make the shield have a lighter weight (Col. 7, lines 17-21): "It will also be appreciated that without the viewport formed of a polycarbonate or lexan material, the present shield, as in conventional ballistic shields formed of polyethylene, is advantageously considerably lighter than such conventional shields." See also, Col. 7, lines 59-61: "Moreover, the present ballistic shield is lighter than conventional shields by eliminating the very heavy viewport."

In view of Baker's clear teaching away from integrating a viewing window into a ballistic shield, skilled persons would not be disposed to try to combine the teachings of Baker and Davey. Even if such combination were attempted, skilled persons would more likely embrace

Baker's more recent teaching that a viewing window adds weight and should not be included. Davey is not a hand-held shield, but is supported on the ground when in use. Moreover, neither Baker nor Davey disclose a shield a firearm permanently mounted to the shield. Davey has an aperture through which a gun barrel may be inserted, and Baker has a V-groove and handle onto which a rifle barrel is placed. Neither the aperture nor the V-groove hold the firearm in place while the shield is transported from one location to another. This is a significant benefit to Applicant's claimed hand-held ballistic shield.

The rejection as to claim 1 and all claims depending from claim 1 should be withdrawn.

As to claim 10, the Examiner has not cited a reference that shows a hand-held ballistic shield with more than one firearm mounted for operable discharge from said shield. Davey has a single aperture for a single rifle barrel. Baker has a single V-groove for a single long gun barrel. Neither Davey nor Baker suggest that multiple firearms can be attached for operation from a single shield. Claim 10 expressly states "a second firearm mounted to the shield." This means mounted to the same shield. The Examiner wrongly urges that two or more of Davey's single shields can supply this claim limitation. Applicant vigorously disagrees. Claim 10 should be allowed.

Claims 6, 7, 13, 14, 16 and 18 were rejected under 35 USC §103(a) as obvious over US 2,316,055 (Davey) in view of US 6,886,446 (Baker) and in view of US 6,272,781 (Resnick). Applicant respectfully traverses this rejection.

Applicant refers to the discussion above concerning the lack of disclosure in Davey and Baker for Applicant's claimed invention. Resnick does not fill the gaps in Davey and Baker. Resnick discloses a protective garment for wear by a user. Resnick does not disclose mounting a firearm to a ballistic shield that is dischargeably operable by the user from a face of the shield oriented toward the user. Nor does Resnick show a hand-held ballistic shield with a viewing window. Hence the instant rejections of claims 6, 7, 13, 14, and 16 cannot make out a *prima facie* case of obviousness because the cited references do not disclose all the claimed elements.

Accordingly, Applicant respectfully requests that the rejection of claims 6, 7, 13, 14, and 16 be withdrawn.

As to claim 18, the Examiner has not cited a reference that shows a hand-held ballistic shield with more than one firearm mounted for operable discharge from said shield. Davey has a single aperture for a single rifle barrel. Baker has a single V-groove for a single long gun barrel. Resnick concerns body armor to be worn. Neither Davey nor Baker nor Resnick suggest that multiple firearms can be permanently attached for operation from a single shield. Claim 18 expressly states "a second firearm permanently mounted to the shield." This means mounted to the same shield.

Claim 15 was rejected under 35 USC §103(a) as obvious over US 2,316,055 (Davey) in view of US 6,886,446 (Baker) and in view of US 1,227,544 (Lobdell). Applicant respectfully traverses this rejection.

Claim 1 as amended distinguishes from Davey and Baker as noted above. Furthermore, neither Davey nor Baker discloses the use of a mirror in the viewing window. Lobdell does not fill the gap in the disclosures of Davey. Lobdell discloses a gun sight adapted to engage the barrel of a carbine repeater rifle. Lobdell is devoid of any teaching regarding a ballistic shield formed of a ballistic material with a viewing window and a firearm permanently mounted onto the shield. Lobdell does not disclose the use of any mounting means, such as a frame attached to the shield, to mount a firearm permanently to the shield. Lobdell is devoid of any structure that can facilitate the mounting of weapon onto a shield. Lobdell discloses a gun sight for a firearm designed to correct for blurring due to incorrect focusing by the user. Lobdell does not disclose mounting a firearm to a ballistic shield that is dischargeably operable by the user from a face of the shield oriented toward the user. Hence the instant rejection of claim 15 cannot make out a *prima facie* case of obviousness because the cited references do not disclose all the claimed elements. Accordingly, Applicant respectfully requests that the rejection of claim 15 be withdrawn.

Claims 1-5, 8, 10-12, 17, 19 and 20 were rejected under 35 USC §103(a) as obvious over US 2,316,055 (Davey) in view of US 1,308,286 (Korn) or US 1,301,293 (Molvig). Applicant respectfully traverses this rejection. Claim 1 as amended distinguishes from Davey as explained above. Neither Korn nor Molvig fill the gaps in the disclosure of Davey. Korn concerns a gun carriage supported by wheels, and has no hand-held shield and no window through a shield. A rifle is removably engaged by strap "G". Hence, Korn does not show a firearm permanently mounted to a shield. Molvig shows a protective shield that is removably attachable to a firearm. Molvig intends the firearm support the shield, and the opening through the shield holds the barrel of the firearm. Hence, Molvig does not show a firearm permanently mounted to a shield. Accordingly, Applicant respectfully requests that the rejection of claim 1 and the claims depending from it be withdrawn.

Claim 18 was rejected under 35 USC §103(a) as obvious over US 6,845,701 (Drackett) in view of US 6,272,781 (Resnick) and US 33,854 (Seely). Applicant respectfully traverses this rejection. Claim 18 as amended requires that each firearm be permanently mounted to the shield and dischargeably operable when so mounted. Claim 18 also requires that the shield is deployed in front of at least a portion of a user's body, which includes the user's hand contacting the firearm.

Drackett shows a mobile personnel shield comprising a frame supported on wheels. The shield forms an enclosure inside which an individual may stand. A single rifle is "removably mounted" to gun supports (Col. 4, line 55). Drackett does not show a second firearm mounted to the mobile system that is positioned to discharge in a direction different from the discharge of the single rifle. The holstered weapon shown in Drackett's figures is not a second firearm that is mounted to the mobile system. Moreover, Drackett teaches away from portable hand held shields (Col. 2, lines 2-7).

Persons starting from Drackett's disclosure would not be disposed to consider Resnick and Seely, which concern body armor to be worn over the torso. Drackett emphasizes the importance of creating a mobile ballistic enclosure (i.e., with wheels and sides) to protect an individual from "head to toe" (Col. 2, line 13). Drackett teaches away from body armor and

from hand-held shields. Thus, a person of ordinary skill in the art would not have attempted to combine Drackett with Resnick and Seely as proposed by the Examiner.

Even if the combination were attempted, which Applicant disputes would be the case, the resulting structure would not comprise the claimed features of pending claim 18. Claim 18 requires two firearms that are permanently mounted to the shield and that are dischargeably operable while so mounted. Seely shows a breech loading firearm mounted to a front portion of a breast plate. While the breech loading firearm has multiple barrels, it constitutes one firearm that is triggered by a single trigger. Setting aside whether or not this type of firearm constitutes two or more firearms, which Applicant disputes, Seely still fails to disclose the shield structure claimed in claim 18. In Seely the breast plate is intended to be worn close to the body, and is not deployed in front of a user's body while still enabling activating the firearm by a hand that is protected behind ballistic material. In Seely, the breech loading firearm must be activated by a hand that is not protected behind the breast plate. Seely thus lacks required structural limitations in claim 18.

Resnick does not fill the gaps in the disclosure of Drackett and Seely. Resnick discloses a protective garment for wear by a user. Resnick does not disclose permanently mounting a firearm to a ballistic shield that is dischargeably operable by the user from a face of the shield oriented toward the user. Nor does Resnick show a second firearm permanently mounted to a ballistic shield. Nor does Resnick show a ballistic shield with a viewing window. Resnick's garment doesn't protect or shield a user's hand when such user activates a firearm. Thus, claim 18 and all claims depending from claim 18 should be allowed.

In view of the above amendment, Applicant believes the pending application is in condition for allowance.

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Reply to Office Action of April 6, 2007

Docket No.: 12051-00001-US

If any fees are due, please charge our Deposit Account No. 03-2775, under Order No. 12051-00001-US from which the undersigned is authorized to draw.

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Respectfully submitted,

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